

IN RE: PETITION FOR SPECIAL HEARING
2/28 Rolling, 921' NW of the
c/1 of Rolling Road and
Dogwood Road
2nd Election District
2nd Councilmanic District
Legal Owner:
Anna T. Wachter, et al
Contract Purchaser:
Dogwood Associates
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE # 89-497-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a Special hearing to approve a use permit to utilize a D.R. zoned portion of the subject property for parking, as more particularly described on Petitioners' Exhibit 1.

The Petitioner, Dogwood Associates, by John B. Colvin, represented by Stephen J. Nolan, Esquire and Newton A. Williams, Esquire, appeared and testified. Also appearing on behalf of the Petitioners were David S. Thaler, a professional engineer and Bernard Willemain, a zoning and land use consultant. There were no Protenants.

Testimony indicated that the subject property located on the north-east corner of Rolling Road and Dogwood Road, is split zoned D.R.5.5 and B.L. consisting of approximately 12.07 acres +/--. The northwesternmost portion of the subject property is zoned D.R.5.5, consisting of approximately 1.5 acres +/--. The Petitioners have proposed, and received CRG approval on February 2, 1989, for the construction of a neighborhood shopping center on the B.L. portion of the property consisting of a supermarket and retail strip as more particularly described on Petitioners' Exhibit 1. In conjunction with the shopping center, the Petitioners are desirous of utilizing the aforementioned 1.5 acre +/- parcel, zoned D.R.5.5, as a parking facility for the adjacent supermarket.

Testimony indicated that the properties adjoining the subject property include the Rockfields Community, a townhouse community located on the east, northeast and partially to the north sides of the subject property, zoned D.R.5.5, the Shrine of Our Lady of Perpetual Help Woodlawn Church, Rectory and John Paul Regional School, located on the east and south side of the subject property and the Emmarts United Methodist Church, located at the northwest corner of North Rolling Road and Dogwood Road.

Mr. Colvin testified that the shopping center and parking facility will be managed and maintained by the Dogwood Associates Ltd. Partnership. He stated that the proposed parking area will service the customers patronizing the grocery store, and that the facility will be in operation seven days per week. Mr. Colvin also testified that, pursuant to the "Agreement", marked Petitioners' Exhibit 2, trash receptacles, which will be of the compactor type, will be placed in the rear of the supermarket in the northeastern portion of the property and will be screened by an appropriate plant or fence screen on two sides.

Mr. Thaler testified that the proposed parking area will provide a vegetative buffer on the north and west side of the shopping center. Additionally, Mr. Thaler testified that the proposed parking area will be contiguous to the supermarket, that only passenger vehicles, excluding buses, will be permitted to use the parking facility and no loading, service, or any use other than parking shall be permitted in the proposed parking area. Mr. Thaler testified that the proposed parking facility will otherwise comply with all of the conditions of Section 409.8.8.2 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Mr. Thaler stated that, in his opinion, the proposed parking area and landscaping will have a positive impact on the community. The topography of the parking area is significantly lower than that of the adjacent residential property which will provide a natural buffer against adverse parking lot light diffusion. The proposed landscaping will provide a vegetative buffer between the properties north and west of the shopping center. Additionally, Mr. Thaler testified that the proposed parking lot facility will not have an adverse impact upon the health, safety or general welfare of the community, and that the requirements of Section 502.1 of the B.C.Z.R. will be met.

Mr. Willemain testified that he has been personally familiar with the subject site since the 1940s, and that he visited same prior to the hearing. He stated that, in his opinion, the proposed parking lot will not have an adverse impact upon the health, safety and general welfare of the community and that, in his opinion, the requirements of Section 502.1 of the B.C.Z.R. will be met.

It is clear that the B.C.Z.R. permits the proposed use in a D.R.5.5 zone, pursuant to the issuance of a use permit, subject to the requirements of Section 409.8.2. The burden is on the Petitioner to adduce testimony and evidence which demonstrates that the proposed use meets the requirements set forth in Section 409.8.2. Testimony and evidence presented established that the proposed parking facility will be adjacent to the supermarket, will only be utilized as a parking facility for passenger vehicles (excluding buses) and that no loading, service or any use other than parking will be conducted in this area. In view of the testimony and evidence presented, it is the Zoning Commissioner's opinion that the proposed construction, use and maintenance of the subject parking

facility will have a positive impact on the community. The topography of the parking area is significantly lower than that of the adjacent residential property which will provide a natural buffer against adverse parking lot light diffusion. The proposed landscaping will provide a vegetative buffer between the properties north and west of the shopping center. Additionally, Mr. Thaler testified that the proposed parking lot facility will not have an adverse impact upon the health, safety or general welfare of the community, and that the requirements of Section 502.1 of the B.C.Z.R. will be met.

The Petitioners have the burden of adducing testimony and evidence which will show that the proposed use meets the requirements of Section 502.1 of the B.C.Z.R. and that the proposed use meets the requirements set forth in Section 409.8.2. Testimony and evidence presented established that the proposed parking facility will be adjacent to the supermarket, will only be utilized as a parking facility for passenger vehicles (excluding buses) and that no loading, service or any use other than parking will be conducted in this area. In view of the testimony and evidence presented, it is the Zoning Commissioner's opinion that the proposed construction, use and maintenance of the subject parking

The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in the streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertising, posting of the property, and public hearing on this petition held, and for the reasons given above, the requested Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 21st day of July, 1989 that a use permit for parking in a residential zone, in accordance with Petitioner's Exhibit 1, be and the same is hereby GRANTED, subject, however, to the following restriction:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
Zoning Commissioner for
Baltimore County

JRH:mm
att.
cc: Peoples Counsel

cc: Mr. David S. Thaler, P.E., 11 Warren Road, Baltimore, Md. 21208
Mr. John B. Colvin, 124 Slade Avenue, Baltimore, Md. 21208
Mr. Bernard Willemain, Dulany Valley Road, Phoenix, Md. 21131
Stephen J. Nolan, Esquire, Newton A. Williams, Esquire
Nolan, Plumhoff and Williams, Suite 700, Court Towers, 210 W.
Pennsylvania Avenue, Towson, Maryland 21204-5340

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

July 21, 1989



Stephen J. Nolan, Esquire
Newton A. Williams, Esquire
Nolan, Plumhoff and Williams
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing
Case #89-497-SPH
Legal Owner: Anna T. Wachter, et al,
Contract Purchaser: Dogwood Associates, Petitioners

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been Granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mm
att.
cc: Peoples Counsel

cc: Mr. David S. Thaler, P.E., 11 Warren Road, Baltimore, Md. 21208
Mr. John B. Colvin, 124 Slade Avenue, Baltimore, Md. 21208
Mr. Bernard Willemain, 12605 Dulany Valley Road, Phoenix, Md. 21131

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a use permit for parking in a residential zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
Dogwood Associates, A Maryland Limited
(Type or Print Name) Partnership

Signature: *[Signature]*

124 Slade Avenue
Address

Pikesville, Maryland 21209
City and State

Attorney for Petitioner:
Stephen J. Nolan, Esquire
Address

1105 Hampton Plaza, 300 E. Joppa Road
Address

Towson, Maryland 21204
City and State

Attorney's Telephone No.: 823-7800

Legal Owner(s):
Anna T. Wachter
(Type or Print Name) Partnership

Signature: *[Signature]*

George H. Von Paris
(Type or Print Name)

Signature: *[Signature]*

2323 and 2325 N. Rolling Road
Address

Baltimore County, Maryland 21207
City and State

Name, address and phone number of legal owner, contract purchaser, or representative to be contacted

Stephen J. Nolan, Esquire
Newton A. Williams, Esquire
Name

1105 Hampton Plaza, 300 E. Joppa Road
Address

Phone No. 823-7800

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of July, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 21st day of July, 1989, at 2:00 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

February 6, 1989

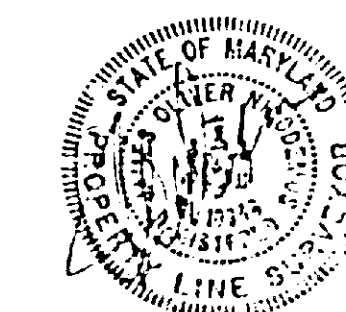
A DESCRIPTION OF PARCEL "A" AT THE NORTHWEST
CORNER OF DOGWOOD ASSOCIATES PROPERTY
SECOND ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning at a point on the existing eastern Right-Of-Way line of Rolling Road (33' wide), said point being situated approximately 921 feet Northwest from the intersection of the center lines of Rolling Road and Dogwood Road; thence the following four courses & distances:

1. North 02° 57' 29" West 200.00'
2. North 87° 02' 31" East 313.50'
3. South 02° 57' 29" East 200.00'
4. South 87° 02' 31" West 313.50'

to the point of beginning.

Containing 1.44 acres of land more or less.



Emmarts United Methodist Church
Dogwood and Rolling Roads
7100 Dogwood Road
Baltimore, Maryland 21207
Telephone 914-1131

June 5, 1989

Robert Haines, Esq.
Baltimore County Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines,
Representatives of Emmarts United Methodist Church met with Dogwood Associates regarding the proposed Dogwood Station (Case Number 89-497-SPH) and the changes indicated in the Church had been made to our satisfaction. An agreement stating the changes was signed by Emmarts Church, Our Lady of Perpetual Help and Rockfield Association with Dogwood Associates.

Sincerely,
Clara L. Fiedler
Rev. Clara L. Fiedler, Pastor

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: May 15, 89
Posted for: Special Hearing
Petitioner: Anna T. Wachter, et al. Contract Purchase Dogwood Associates
Location of property: E/S of Rolling Road, 221 NW of Dogwood Road
Location of Sign: East side of Rolling Road in front of subject property
Remarks: J. Robert Haines
Posted by: J. Robert Haines Date of return: May 19, 89
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 22, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 16, 1989.

THE JEFFERSONIAN.

S. Zake Nelson
Publisher

PG 12529
Pg 128975
Pg 89-497-SPH
pgs \$ 37.43

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

Date: 5/23/89

Dogwood Associates
124 Slade Avenue
Pikesville, Maryland 21208

Re: Petition for Special Hearing
CASE NUMBER: 89-497-SPH
E/S of Rolling, 221 NW of c/l of Rolling & Dogwood Roads
2nd Election District - 2nd Councilmanic
Legal Owner(s): Anna T. Wachter, et al
Contract Purchase(s): Dogwood Associates
HEARING SCHEDULED: THURSDAY, JUNE 8, 1989 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$54.22 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

When you return the sign and post set(s), there is a fee of \$1.00 per set not to be returned.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 5/23/89 ACCOUNT: 89-497-SPH
AMOUNT: \$ 54.22
RECEIVED FROM: Anna T. Wachter, et al
FOR: Dogwood Associates, 89-497-SPH

VALIDATION OR SIGNATURE OF CASHIER
DATE-TIME-INITIALS PNC-AGENCY YELLOW-CUSTOMER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner

May 3, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-497-SPH
E/S of Rolling, 221 NW of c/l of Rolling & Dogwood Roads
2nd Election District - 2nd Councilmanic
Legal Owner(s): Anna T. Wachter, et al
Contract Purchase(s): Dogwood Associates
HEARING SCHEDULED: THURSDAY, JUNE 8, 1989 at 2:00 p.m.

Special Hearing: A use permit for parking in a residential zone.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
Zoning Commissioner of
Baltimore County

cc: Anna T. Wachter, et al
Dogwood Associates
Newton A. Williams, Esq.
File

CERTIFICATE OF PUBLICATION

Pikesville, Md., May 19, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHWEST STAR, a weekly newspaper published in Pikesville, Baltimore County, Maryland before the 19th day of May, 1989, the first publication appearing on the 17th day of May, 1989, the second publication appearing on the 18th day of May, 1989, the third publication appearing on the 19th day of May, 1989.

THE NORTHWEST STAR

Manager

Cost of Advertisement \$21.40

NO A 12550

AGREEMENT

THIS AGREEMENT made this 12th day of May, 1989, by and between DOGWOOD ASSOCIATES, a Maryland Limited Partnership (Dogwood), party of the first part, and ROCKFIELDS COMMUNITY ASSOCIATION, INC., a Body Corporate (Rockfields), party of the second part, and SHRINE OF OUR LADY OF PERPETUAL HELP WOODLAWN, A Roman Catholic Congregation, Inc., a Body Corporate, (Our Lady), party of the third part, and EMMARTS UNITED METHODIST CHURCH (Emmarts), party of the fourth part.

WHEREAS, Dogwood Associates is the owner, and approved C.R.G. applicant, and prospective applicant for a use permit for parking in a residential zone for part of an 11.96 acre property, (B.L. 10.61 acres) and two (2) D.R.5.5 zoned properties, namely Von Paris/Wachter properties (the proposed parking use permit properties) of 1.46 acres, located at the northeast corner of Dogwood Road and North Rolling Road in the Second Councilmanic District of Baltimore County, the said property being hereinafter called collectively Dogwood; and

WHEREAS, the said Dogwood Station, a proposed neighborhood shopping center, which was approved at a CRG on February 2, 1989, contains in the B.L. zoned portion approximately 10.61 acres, the owner of the said property being Dogwood Associates, pursuant to a deed recorded among the Land Records of Baltimore County at Liber 6887, Folio 155; and

PETITIONER'S
EXHIBIT 2

89-497-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 17th day of April, 1989.

J. Robert Haines
ZONING COMMISSIONER
Petitioner: Anna T. Wachter, et al
Petitioner's Attorney: Stephen J. Nolan
Received by: James P. Over
Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 10, 1989

Stephen J. Nolan, Esquire
Nolan, Plumbhoff & Williams, Chartered
1105 Hampton Plaza
300 E. Joppa Road
Towson, MD 21204

MEMBERS
Chair of Planning
Chair of Engineering
Chair of Public Works
Chair of Transportation
Chair of Health Department
Chair of Planning
Chair of Education
Chair of Administration
Chair of Social Services
Chair of Police Department

Re: Item No. 401, Case No. 89-497-SPH
Petitioner: Anna T. Wachter, et al
Petition for Special Hearing

Dear Mr. Nolan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 897-1191.

Very truly yours,

James P. Over
Chairman
Zoning Plans Advisory Committee

Enclosures

cc: Dogwood Associates
124 Slade Avenue
Pikesville, MD 21208

Anna T. Wachter
221 N. Rolling Road
Baltimore, MD 21207

April 21, 1989

Dear Mr. Haines

Very truly yours,

MSF/lab

RECEIVED
APR 28 1989
ZONING OFFICE

cc: Newton A. Williams, Esquire

June 2, 1989

Gentlemen:

Very truly yours

cc: Rev. G. Michael Schleupner
Rev. W. Frances Malooly
Richard O. Berndt, Esquire
Rev. Russell LaBorta

89-4975PH

